

**SENATE BILL**

**No. 4**

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**Introduced by Senators Nielsen and Stone**

**(Coauthors: Senators Anderson, Bates, Berryhill, Fuller, Gaines,  
Huff, Moorlach, Morrell, Nguyen, Runner, and Vidak)**

**(Coauthors: Assembly Members Maienschein, Mayes, and Steinorth)**

July 16, 2015

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An act to amend Sections 4681.6, 4689.8, 4691.9, and 4860, and to add Sections 4681.2, 4690.7, 4793, 4794, and 14105.194 to, the Welfare and Institutions Code, relating to human services financing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as introduced, Nielsen. Developmental services: Medi-Cal: rate increases.

The Lanterman Developmental Disabilities Services Act requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services for individuals with developmental disabilities through approved service providers or arrange for those services through other publicly funded agencies. Existing law establishes specified rates to be paid to certain service providers and the rates to be paid for certain developmental services. Existing law requires that rates to be paid to other developmental service providers either be set by the department or negotiated between the regional center and the service provider. Existing law prohibits certain provider rate increases, but authorizes increases to those rates as necessary to adjust employee wages to meet the state minimum wage law and to provide paid sick leave.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law requires, except as otherwise provided, Medi-Cal provider payments to be reduced, as specified.

This bill would, to the extent that General Fund revenues for the 2014–15 fiscal year exceed the revenues estimated for that fiscal year in the Budget Act of 2015 and that General Fund revenues for the 2015–16 fiscal year are expected to exceed the revenues estimated for that fiscal year in the Budget Act of 2015, appropriate certain sums to the State Department of Developmental Services to increase rates for certain developmental service providers and to increase regional center operating budgets, and appropriate certain sums to the State Department of Health Care Services for the purpose of increasing Medi-Cal provider rates for providers whose rates were reduced. The bill would require the Director of Finance to determine the percentage increases to be provided to developmental service providers, regional center operating budgets, and Medi-Cal providers based on the amount by which General Fund revenues exceed, or are expected to exceed, the revenues budgeted for the 2014–15 and 2015–16 fiscal years. The bill would make the rate increases, if any, retroactive to July 1, 2015.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares that the
- 2 Budget Act of 2015 did not prioritize community services for
- 3 Californians with intellectual or developmental disabilities or better
- 4 access to care for Medi-Cal recipients.
- 5 (b) Therefore, it is the intent of the Legislature that unanticipated
- 6 General Fund revenues received by the state be used to increase
- 7 funding for community services provided to individuals with
- 8 intellectual or developmental disabilities and to increase
- 9 reimbursement rates for Medi-Cal providers.
- 10 SEC. 2. Section 4681.2 is added to the Welfare and Institutions
- 11 Code, to read:
- 12 4681.2. Notwithstanding any other law, the department shall
- 13 increase the rates set for community care facilities serving persons

1 with developmental disabilities to implement the rate increase or  
2 increases, if any, required by Section 4793.

3 SEC. 3. Section 4681.6 of the Welfare and Institutions Code  
4 is amended to read:

5 4681.6. (a) Notwithstanding any other law or regulation,  
6 commencing July 1, 2008:

7 (1) A regional center shall not pay an existing residential service  
8 provider, for services where rates are determined through a  
9 negotiation between the regional center and the provider, a rate  
10 higher than the rate in effect on June 30, 2008, unless the increase  
11 is required by a contract between the regional center and the vendor  
12 that is in effect on June 30, 2008, or the regional center  
13 demonstrates that the approval is necessary to protect the  
14 consumer's health or safety and the department has granted prior  
15 written authorization.

16 (2) A regional center shall not negotiate a rate with a new  
17 residential service provider, for services where rates are determined  
18 through a negotiation between the regional center and the provider,  
19 that is higher than the regional center's median rate for the same  
20 service code and unit of service, or the statewide median rate for  
21 the same service code and unit of service, whichever is lower. The  
22 unit of service designation shall conform with an existing regional  
23 center designation or, if none exists, a designation used to calculate  
24 the statewide median rate for the same service. The regional center  
25 shall annually certify to the department its median rate for each  
26 negotiated rate service code, by designated unit of service. This  
27 certification shall be subject to verification through the  
28 department's biennial fiscal audit of the regional center.

29 (b) Notwithstanding subdivision (a), commencing July 1, 2014,  
30 regional centers may negotiate a rate adjustment with residential  
31 service providers regarding rates that are otherwise restricted  
32 pursuant to subdivision (a), if the adjustment is necessary in order  
33 to pay employees no less than the minimum wage as established  
34 by Section 1182.12 of the Labor Code, as amended by Chapter  
35 351 of the Statutes of 2013, and only for the purpose of adjusting  
36 payroll costs associated with the minimum wage increase. The  
37 rate adjustment shall be specific to the unit of service designation  
38 that is affected by the increased minimum wage, shall be specific  
39 to payroll costs associated with any increase necessary to adjust  
40 employee pay only to the extent necessary to bring pay into

1 compliance with the increased state minimum wage, and shall not  
2 be used as a general wage enhancement for employees paid above  
3 the minimum wage. Regional centers shall maintain documentation  
4 on the process to determine, and the rationale for granting, any  
5 rate adjustment associated with the minimum wage increase.

6 (c) Notwithstanding subdivision (a), commencing July 1, 2015,  
7 regional centers may negotiate a rate adjustment with residential  
8 service providers regarding rates that are otherwise restricted  
9 pursuant to subdivision (a), if the adjustment is necessary to  
10 implement Article 1.5 (commencing with Section 245) of Chapter  
11 1 of Part 1 of Division 2 of the Labor Code, as added by Chapter  
12 317 of the Statutes of 2014. The rate adjustment may be applied  
13 only if a minimum of 24 hours or three days of paid sick leave per  
14 year was not a benefit provided to employees as of June 30, 2015,  
15 and shall be specific to payroll costs associated with any increase  
16 necessary to compensate an employee up to a maximum of 24  
17 hours or three days of paid sick leave in each year of employment.

18 (d) *Notwithstanding subdivision (a), regional centers shall*  
19 *increase the rates paid to residential service providers, for services*  
20 *where rates are determined through a negotiation between the*  
21 *regional center and the provider, to implement the rate increase*  
22 *or increases, if any, required by Section 4793.*

23 ~~(d)~~

24 (e) For purposes of this section, “residential service provider”  
25 includes Adult Residential Facilities for Persons with Special  
26 Health Care Needs, as described in Section 4684.50.

27 ~~(e)~~

28 (f) This section shall not apply to those services for which rates  
29 are determined by the State Department of Health Care Services,  
30 or the State Department of Developmental Services, or are usual  
31 and customary.

32 SEC. 4. Section 4689.8 of the Welfare and Institutions Code  
33 is amended to read:

34 4689.8. (a) Notwithstanding any other ~~provision of law or~~  
35 ~~regulation~~, commencing July 1, 2008:

36 ~~(a) No~~

37 (1) A regional center ~~may~~ *shall not* pay an existing supported  
38 living service provider, for services where rates are determined  
39 through a negotiation between the regional center and the provider,  
40 a rate higher than the rate in effect on June 30, 2008, unless the

increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

~~(b) No~~

(2) A regional center ~~may~~ *shall not* negotiate a rate with a new supported living service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

*(b) Notwithstanding subdivision (a), regional centers shall increase the rates paid to supported living service providers, for services where rates are determined through a negotiation between the regional center and the provider, to implement the rate increase or increases, if any, required by Section 4793.*

SEC. 5. Section 4690.7 is added to the Welfare and Institutions Code, to read:

4690.7. Notwithstanding any other law, the department shall increase the rates set for nonresidential service providers to implement the rate increase or increases, if any, required by Section 4793.

SEC. 6. Section 4691.9 of the Welfare and Institutions Code is amended to read:

4691.9. (a) Notwithstanding any other law or regulation, commencing July 1, 2008:

(1) A regional center shall not pay an existing service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in

1 effect on June 30, 2008, or the regional center demonstrates that  
2 the approval is necessary to protect the consumer's health or safety  
3 and the department has granted prior written authorization.

4 (2) A regional center shall not negotiate a rate with a new service  
5 provider, for services where rates are determined through a  
6 negotiation between the regional center and the provider, that is  
7 higher than the regional center's median rate for the same service  
8 code and unit of service, or the statewide median rate for the same  
9 service code and unit of service, whichever is lower. The unit of  
10 service designation shall conform with an existing regional center  
11 designation or, if none exists, a designation used to calculate the  
12 statewide median rate for the same service. The regional center  
13 shall annually certify to the State Department of Developmental  
14 Services its median rate for each negotiated rate service code, by  
15 designated unit of service. This certification shall be subject to  
16 verification through the department's biennial fiscal audit of the  
17 regional center.

18 (b) Notwithstanding subdivision (a), commencing July 1, 2014,  
19 regional centers may negotiate a rate adjustment with providers  
20 regarding rates if the adjustment is necessary in order to pay  
21 employees no less than the minimum wage as established by  
22 Section 1182.12 of the Labor Code, as amended by Chapter 351  
23 of the Statutes of 2013, and only for the purpose of adjusting  
24 payroll costs associated with the minimum wage increase. The  
25 rate adjustment shall be specific to the unit of service designation  
26 that is affected by the increased minimum wage, shall be specific  
27 to payroll costs associated with any increase necessary to adjust  
28 employee pay only to the extent necessary to bring pay into  
29 compliance with the increased state minimum wage, and shall not  
30 be used as a general wage enhancement for employees paid above  
31 the increased minimum wage. Regional centers shall maintain  
32 documentation on the process to determine, and the rationale for  
33 granting, any rate adjustment associated with the minimum wage  
34 increase.

35 (c) Notwithstanding any other law or regulation, commencing  
36 January 1, 2015, rates for personal assistance and supported living  
37 services in effect on December 31, 2014, shall be increased by  
38 5.82 percent, subject to funds specifically appropriated for this  
39 increase for costs due to changes in federal regulations  
40 implementing the federal Fair Labor Standards Act of 1938 (29

1 U.S.C. Sec. 201 et seq.). The increase shall be applied as a  
2 percentage, and the percentage shall be the same for all applicable  
3 providers. As used in this subdivision, both of the following  
4 definitions shall apply:

5 (1) “Personal assistance” is limited only to those services  
6 provided by vendors classified by the regional center as personal  
7 assistance providers, pursuant to the miscellaneous services  
8 provisions contained in Title 17 of the California Code of  
9 Regulations.

10 (2) “Supported living services” are limited only to those services  
11 defined as supported living services in Title 17 of the California  
12 Code of Regulations.

13 (d) Notwithstanding subdivision (a), commencing July 1, 2015,  
14 regional centers may negotiate a rate adjustment with existing  
15 service providers for services for which rates are determined  
16 through negotiation between the regional center and the provider,  
17 if the adjustment is necessary to implement Article 1.5  
18 (commencing with Section 245) of Chapter 1 of Part 1 of Division  
19 2 of the Labor Code, as added by Chapter 317 of the Statutes of  
20 2014. The rate adjustment may be applied only if a minimum of  
21 24 hours or three days of paid sick leave per year was not a benefit  
22 provided to employees as of June 30, 2015, and shall be specific  
23 to payroll costs associated with any increase necessary to  
24 compensate an employee up to a maximum of 24 hours or three  
25 days of paid sick leave in each year of employment.

26 *(e) Notwithstanding subdivision (a), regional centers shall*  
27 *increase the rates paid to service providers, for services where*  
28 *rates are determined through a negotiation between the regional*  
29 *center and the provider, to implement the rate increase, if any,*  
30 *required by Section 4793.*

31 ~~(e)~~

32 (f) This section shall not apply to those services for which rates  
33 are determined by the State Department of Health Care Services,  
34 or the State Department of Developmental Services, or are usual  
35 and customary.

36 SEC. 7. Section 4793 is added to the Welfare and Institutions  
37 Code, immediately following Section 4792, to read:

38 4793. (a) (1) On or before January 10, 2016, the Director of  
39 Finance shall calculate the sum of the amount by which General  
40 Fund revenues for the 2014–15 fiscal year exceed the revenue

1 estimated for that fiscal year calculated at the time of the Budget  
2 Act of 2015 and the amount by which General Fund revenues for  
3 the 2015–16 fiscal year are expected to exceed the revenue  
4 estimated for that fiscal year in the Budget Act of 2015.

5 (2) (A) If the amount calculated pursuant to paragraph (1), after  
6 subtracting the amounts required to satisfy the obligations arising  
7 from Sections 8 and 20 of Article XVI of the California  
8 Constitution, is less than or equal to the amount necessary to  
9 provide a 10 percent rate increase to the developmental services  
10 providers identified in subparagraph (B), the entire amount is  
11 appropriated to the State Department of Developmental Services  
12 for the purpose of providing rate increases to service providers  
13 and increasing regional center operating budgets, the amount of  
14 which shall be calculated pursuant to subparagraph (B).

15 (B) The Director of Finance shall, in consultation with the State  
16 Department of Developmental Services, calculate the percentage  
17 rate increase to be provided to community care facilities serving  
18 persons with developmental disabilities, residential service  
19 providers, supported living service providers, nonresidential service  
20 providers, other service providers, and supported employment  
21 services providers, and the increase to regional center operating  
22 budgets. In calculating the percentage increase, the director shall  
23 ensure that the total cost of the rate increases for all service  
24 providers and the increase in regional center operating budgets  
25 equals the amount calculated pursuant to paragraph (1) and that  
26 the percentage increase for each provider type and regional center  
27 operating budget is the same.

28 (3) (A) If the amount calculated pursuant to paragraph (1), after  
29 subtracting the amounts required to satisfy the obligations arising  
30 from Sections 8 and 20 of Article XVI of the California  
31 Constitution, is more than the amount necessary to provide a 10  
32 percent rate increase to the developmental services providers  
33 identified in subparagraph (B) of paragraph (2), then the amount  
34 necessary to provide a 10 percent rate increase to the developmental  
35 services providers identified in subparagraph (B) of paragraph (2)  
36 is appropriated to the State Department of Developmental Services  
37 for the purpose of providing rate increases to service providers  
38 and increasing regional center operating budgets, the amount of  
39 which shall be calculated pursuant to subparagraph (B), and the  
40 remainder of the amount, up to the amount necessary to restore



1 the rates paid to affected Medi-Cal providers to the levels in effect  
2 prior to the reductions imposed by Sections 14105.07, 14105.191,  
3 14105.192, and 14105.93, is appropriated to the State Department  
4 of Health Care Services for the purpose of increasing Medi-Cal  
5 provider rates, the amount of which shall be calculated pursuant  
6 to subparagraph (C).

7 (B) The Director of Finance shall, in consultation with the State  
8 Department of Developmental Services, calculate the percentage  
9 rate increase to be provided to community care facilities serving  
10 persons with developmental disabilities, residential service  
11 providers, supported living service providers, nonresidential service  
12 providers, other service providers, and supported employment  
13 service providers, and the increase to regional center operating  
14 budgets. In calculating the percentage increase, the director shall  
15 ensure that the total cost of the rate increases for all service  
16 providers and the increase in regional center operating budgets is  
17 no greater than the amount necessary to provide a 10 percent rate  
18 increase to the developmental services providers identified in  
19 subparagraph (B) of paragraph (2) and that the percentage increase  
20 for each provider type and regional center operating budget is the  
21 same.

22 (C) The Director of Finance shall, in consultation with the State  
23 Department of Health Care Services, calculate the percentage rate  
24 increase to be provided to Medi-Cal providers for whom rates were  
25 reduced pursuant to Section 14105.07, 14105.191, 14105.192, or  
26 14105.93. In calculating the percentage rate increase, the director  
27 shall ensure that the total cost of the rate increase for all providers  
28 equals the amount calculated pursuant to paragraph (1) minus the  
29 amount necessary to provide a 10 percent rate increase to the  
30 developmental services providers identified in subparagraph (B)  
31 of paragraph (2), but no more than the amount necessary to restore  
32 the rates paid to affected Medi-Cal providers to the levels in effect  
33 prior to the reductions imposed by Sections 14105.07, 14105.191,  
34 14105.192, and 14105.93, and that the percentage increase is  
35 equitable among eligible Medi-Cal providers and managed care  
36 health plans that contract with the State Department of Health Care  
37 Services pursuant to Chapter 7 (commencing with Section 14000)  
38 or Chapter 8 (commencing with Section 14200) of Part 3 of  
39 Division 9.

(b) (1) On or before May 14, 2016, the Director of Finance shall recalculate the sum of the amount by which General Fund revenues for the 2014–15 fiscal year exceed the revenue estimated for that fiscal year calculated at the time of the Budget Act of 2015 and the amount by which General Fund revenues for the 2015–16 fiscal year are expected to exceed the revenue estimated for that fiscal year in the Budget Act of 2015.

(2) If the amount calculated pursuant to paragraph (1), after subtracting the amounts required to satisfy the obligations arising from Sections 8 and 20 of Article XVI of the California Constitution, is greater than the amount calculated pursuant to paragraph (1) of subdivision (a), but is less than or equal to the amount necessary to provide a 10 percent rate increase to the developmental services providers identified in subparagraph (B) of paragraph (2) of subdivision (a), the entire amount, less the amount appropriated pursuant to subparagraph (A) of paragraph (2) of subdivision (a), is appropriated to the State Department of Developmental Services for the purpose of providing rate increases to service providers and increasing regional center operating budgets, the amount of which shall be calculated pursuant to subparagraph (B) of paragraph (2) of subdivision (a), except that the total cost of the rate increases for all service providers and the increase in regional center operating budgets shall equal the amount calculated pursuant to this paragraph.

(3) If the amount calculated pursuant to paragraph (1), after subtracting the amounts required to satisfy the obligations arising from Sections 8 and 20 of Article XVI of the California Constitution, is greater than the amount calculated pursuant to paragraph (1) of subdivision (a), and is more than the amount necessary to provide a 10 percent rate increase to the developmental services providers identified in subparagraph (B) of paragraph (2) of subdivision (a), then the amount necessary to provide a 10 percent rate increase to the developmental services providers identified in subparagraph (B) of paragraph (2) of subdivision (a), less any amount appropriated pursuant to subparagraph (A) of paragraph (2) of subdivision (a) or subparagraph (A) of paragraph (3) of subdivision (a), is appropriated to the State Department of Developmental Services for the purpose of providing rate increases to service providers and increasing regional center operating budgets, the amount of which shall be calculated pursuant to

subparagraph (B) of paragraph (3) of subdivision (a), except that the total cost of the rate increases for all service providers and the increase in regional center operating budgets shall equal the amount appropriated to the State Department of Developmental Services pursuant to this paragraph. The remainder of the amount, up to the amount necessary to restore the rates paid to affected Medi-Cal providers to the levels in effect prior to the reductions imposed by Sections 14105.07, 14105.191, 14105.192, and 14105.93, less any amount appropriated pursuant to subparagraph (A) of paragraph (3) of subdivision (a), is appropriated to the State Department of Health Care Services for the purpose of increasing Medi-Cal provider rates for providers for whom rates were reduced pursuant to Sections 14105.07, 14105.191, 14105.192, and 14105.93, the amount of which shall be calculated pursuant to subparagraph (C) of paragraph (3) of subdivision (a), except that the total cost of the rate increase for all providers shall equal the amount appropriated to the State Department of Health Care Services pursuant to this paragraph.

(c) The rate increases calculated and provided pursuant to this section, if any, shall be retroactive to July 1, 2015.

SEC. 8. Section 4794 is added to the Welfare and Institutions Code, immediately following Section 4793, to read:

4794. Notwithstanding any other law, the department shall increase funding provided to a regional center for the regional center's operating budget to implement the rate increase or increases, if any, required by Section 4793.

SEC. 9. Section 4860 of the Welfare and Institutions Code is amended to read:

4860. (a) (1) ~~The~~ *Except as provided in subdivision (f), the* hourly rate for supported employment services provided to consumers receiving individualized services shall be thirty dollars and eighty-two cents (\$30.82).

(2) Job coach hours spent in travel to consumer worksites may be reimbursable for individualized services only when the job coach travels from the vendor's headquarters to the consumer's worksite or from one consumer's worksite to another, and only when the travel is one way.

(b) ~~The~~ *Except as provided in subdivision (f), the* hourly rate for group services shall be thirty dollars and eighty-two cents (\$30.82), regardless of the number of consumers served in the

1 group. Consumers in a group shall be scheduled to start and end  
2 work at the same time, unless an exception that takes into  
3 consideration the consumer's compensated work schedule is  
4 approved in advance by the regional center. The department, in  
5 consultation with stakeholders, shall adopt regulations to define  
6 the appropriate grounds for granting these exceptions. When the  
7 number of consumers in a supported employment placement group  
8 drops to fewer than the minimum required in subdivision (r) of  
9 Section 4851, the regional center may terminate funding for the  
10 group services in that group, unless, within 90 days, the program  
11 provider adds one or more regional centers, or Department of  
12 Rehabilitation-funded supported employment consumers to the  
13 group.

14 (c) Job coaching hours for group services shall be allocated on  
15 a prorated basis between a regional center and the Department of  
16 Rehabilitation when regional center and Department of  
17 Rehabilitation consumers are served in the same group.

18 (d) When Section 4855 applies, fees shall be authorized for the  
19 following:

20 (1) A three-hundred-sixty-dollar (\$360) fee shall be paid to the  
21 program provider upon intake of a consumer into a supported  
22 employment program. No fee shall be paid if that consumer  
23 completed a supported employment intake process with that same  
24 supported employment program within the previous 12 months.

25 (2) A seven-hundred-twenty-dollar (\$720) fee shall be paid  
26 upon placement of a consumer in an integrated job, except that no  
27 fee shall be paid if that consumer is placed with another consumer  
28 or consumers assigned to the same job coach during the same hours  
29 of employment.

30 (3) A seven-hundred-twenty-dollar (\$720) fee shall be paid after  
31 a 90-day retention of a consumer in a job, except that no fee shall  
32 be paid if that consumer has been placed with another consumer  
33 or consumers, assigned to the same job coach during the same  
34 hours of employment.

35 (e) Notwithstanding paragraph (4) of subdivision (a) of Section  
36 4648, the regional center shall pay the supported employment  
37 program rates established by this section.

38 (f) *The department shall increase the hourly rates established*  
39 *pursuant to subdivisions (a) and (b) to implement the rate increase*  
40 *or increases, if any, required by Section 4793.*

1 SEC. 10. Section 14105.194 is added to the Welfare and  
2 Institutions Code, to read:

3 14105.194. (a) Notwithstanding Sections 14105.07, 14105.191,  
4 14105.192, and 14105.193, payments to providers and managed  
5 care health plans that contract with the department pursuant to this  
6 chapter or Chapter 8 (commencing with Section 14200) shall be  
7 increased pursuant to the operation of Section 4793.

8 (b) The director shall implement this section to the maximum  
9 extent permitted by federal law and for the maximum time period  
10 for which the director obtains federal approval for federal financial  
11 participation for the increases provided for in Section 4793 and  
12 this section.

13 (c) The director shall promptly seek all necessary federal  
14 approvals to implement this section.

15 SEC. 11. The Legislature declares that the changes made by  
16 this act are not intended to result in the substantial impairment of  
17 any contract. To the extent any contract would be substantially  
18 impaired as a result of the application of any change made by this  
19 act, it is the intent of the Legislature that the change apply only to  
20 contracts renewed or entered into on or after the date this act  
21 becomes effective.

O